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**OFFICE OF PETITIONS**

In re Application of  
Kent Charles BURR  
Application No. 10/632,261  
Filed: August 1, 2003  
Attorney Docket No. 129640-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2006, to revive the above-identified application.

The petition is **DISMISSED as moot** for the reasons stated below.

The record shows that a non-final Office action (Restriction Requirement) was mailed on July 8, 2005, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before August 8, 2005, or on or before January 8, 2006, with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a).

A review of the file record discloses that a petition to reset the period for reply to the July 8, 2005 Office action and a reply (election and amendment) to the July 8, 2005 Office action were received on November 10, 2005 (bearing certificate of mailing dates of November 8, 2005). The petition to reset the period for reply also contains an authorization to charge any additional fees required under 37 CFR 1.16 or 1.17 to Deposit Account No. 07-0868. At the time of submission of the petition to reset the period and the concurrently filed reply to the July 8, 2005 Office action, extensions of time were still available.

The rule at 37 CFR 1.136(a)(1) states:

If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17 are filed \* \* \*.

The rule at 37 CFR 1.136(a)(3) further states, in part:

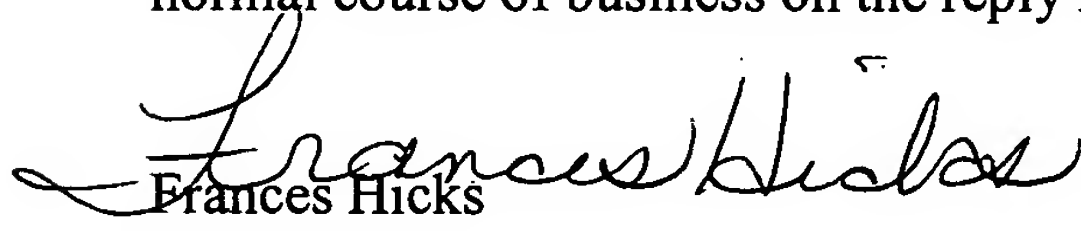
\* \* \* An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a construction petition for an extension of time in any concurrent reply requiring a petition for an extension of time under the paragraph for its timely submission.

In view of the above, this application is not in fact abandoned in view of the authorization appearing in the petition filed November 10, 2005 to reset the period for reply to the July 8, 2005 Office action to charge any additional required fees under 37 CFR 1.17(a). Accordingly, as this application is not in fact abandoned, the filing of the petition to revive on July 12, 2006 is unnecessary and is dismissed as involving a moot issue.

As authorized in the November 10, 2005 petition, the three (3) month extension of time fee of \$1,020 will be charged to Deposit Account No. 07-0868. Further, as a petition to revive in this application is unnecessary, the \$1,500 fee assessed to the petition will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 1732 for appropriate action in the normal course of business on the reply received November 10, 2006.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions